

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 117

Case No. 117

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

CSX Transportation, Inc. (former Seaboard
Coastline Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated on September 2, 3, 4 and 5, 1997 when the Carrier assigned an outside concern (Progress Rail Services) to perform torch cutting of bolts in track joint bars between Mile Posts AK455.7 and AK459.0 at Augusta, Georgia [System File **97-22-RLT/12(98-0051)** SSY].
2. The Agreement was further violated when the Carrier failed to confer with the General Chairman and reach an understanding prior to contracting out the work as stipulated in Rule 2, Section 1.
3. As a consequence of the violations referred to in Parts (1) and/or (2) above, Welder R. L. Timms and Welder Helper W. B. **Godwin** shall each be allowed sixty-four (64) hours' pay at their respective rates of pay.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds and holds as follows:

1. That the Carrier and the Employees involved in this dispute are, respectively, Carrier and Employees within the meaning of the Railway Labor Act, as amended; and
2. That the Board has jurisdiction over this dispute.

SBA 1110
Awd 117

OPINION OF THE BOARD:

The record indicates that outside forces performed the disputed work. The Carrier presented as an affirmative defense and explanation a representation that the disputed work involved the sale of scrap rail and other related materials pursuant to Purchase Order 975124, which became effective on March 21, 1997. The Carrier further clarified that the outside concern had purchased the material on an "as is, where is" basis and that the outside concern merely had engaged in activity to remove the concern's property from the right of way. The record omits any evidence on the property that the Organization had requested any documents from the Carrier to substantiate the Carrier's representation.


As a result of the evidence set forth in the record, the Organization failed to prove that the Carrier had violated the Agreement by using outside forces to perform the disputed work.

AWARD:

The Claim is denied in accordance with the Opinion of the Board.


Robert L. Douglas
Chairman and Neutral Member


Donald D. Bartholomay
Employee Member


Mark D. Selbert
Carrier Member

Dated: 8/15/01